

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.3600 OF 2005

The State of Maharashtra ...Applicant

Versus

Jibhau Gangadhar Nikam & Ors. ...Respondents

Shri S.R.Shinde, A.P.P for the Applicant.

Ms Preetam Tendulkar i/by Shri M.S.Karnik for the Respondents.

CORAM : A. S. OKA, J.

DATE : DECEMBER 21, 2006.

P.C.:

1. Heard the learned A.P.P for the State. The acquittal of the Respondents is for offences punishable under section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and sections 143, 147 read with section 149 of the Indian Penal Code.

2. Perusal of the impugned judgment shows that the learned Trial Judge has considered the evidence of all witnesses. The alleged incident had taken place on 17th April, 2002 and the F.I.R was lodged four months thereafter on 19th August, 2002. An explanation for delay was sought to be given by complainant by

contending that the he had filed a complaint dated 29th April, 2002 to the District Superintendent of Police. The Trial Court has held that the said complaint is not duly proved. Even assuming that such a complaint was filed on 29th April, 2002, there is further inaction on the part of the complainant as the F.I.R is lodged three and half months thereafter on 19th August, 2002.

3. The case of the complainant is that on 17th April, 2002 when he was in his house, his wife had gone for stopping the electric motor. On the way back she was obstructed by one Yamunabai by using filthy language and she was assaulted. When his grandfather went for rescuing his wife, he was beaten by the accused and he was abused.

4. After considering the prosecution case, the learned Trial Judge held that offence under the said Act was not made out. The view taken by the learned Judge is a possible view. Considering the inordinate and unexplained delay in lodging F.I.R, no case is made out for grant of leave. Application is rejected.

JUDGE